

Application No. 09/988,811

REMARKSStatus of the Claims

After entry of the foregoing amendments, Claims 1-8, 43-48 and 60-67 remain pending in the present application. Claims 1, 43 and 60 are the independent claims. Consideration of the present application is respectfully requested in light of the above amendments and in view of the following remarks.

Rejection under 35 U.S.C. § 112, second paragraph

The Examiner rejected Claims 1-8, 43-48 and 60-67 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. In response to the rejections of Claims 1-8, 43-48 and 60-67 under 35 U.S.C. § 112, second paragraph, Applicants respectfully offer remarks to traverse these rejections.

Applicants have amended the claims to remove the language of "can be accessed" and "indicating a desire," but have left the language of "accessible" and "accessible and modifiable." The Examiner cites *In Re Collier*, 158 U.S.P.Q. 266, for the proposition that the terms "accessible" and "accessible and modifiable" are not positive limitations. *In Re Collier* considered an apparatus claim with only two structural elements that contained additional language about intended uses, capabilities, and structure which would result upon the performance of future acts. The Court, in rejecting the Claim under § 112, second paragraph, ruled "that the claim [did] not positively recite structural relationships of the two elements...in its recitation of what may or may not occur." *In Re Collier* is not controlling over the present claims where method Claims 1 and 60 utilize the terms "accessible" and "accessible and modifiable" to show that the central data repository is configured to be accessed by a distributed network. See also *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 1 U.S.P.Q. 2d 1081 (where the court held that a claim was not indefinite with the claim limitation specifying that a certain part of a pediatric wheelchair be "so dimensioned as to be insertable through the space between the doorframe of an automobile and one of the seats" even though the language of "so dimensioned" was variable).

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Therefore, based on the above remarks, Applicants respectfully submit that these terms reflect a positive limitation of what is being claimed, and reconsideration and withdrawal of the rejection of Claims 1-8, 43-48 and 60-67 is respectfully requested.

#### Rejection under 35 U.S.C. § 103

The Examiner has rejected Claims 1-8, 43-48 and 60-67 under 35 U.S.C. § 103 as allegedly being unpatentable by U.S. Patent No. 6,725,050 to Cook (hereinafter "*Cook*") or U.S. Patent No. 6,491,217 to Catan (hereinafter "*Catan*") alone or further in view of U.S. Patent No. 5,737,701 to Rosenthal (hereinafter "*Rosenthal*").

The Applicants respectfully offer remarks to traverse these rejections. The Applicants will address each independent claim separately as the Applicants believes that each independent claim is separately patentable over the prior art of record.

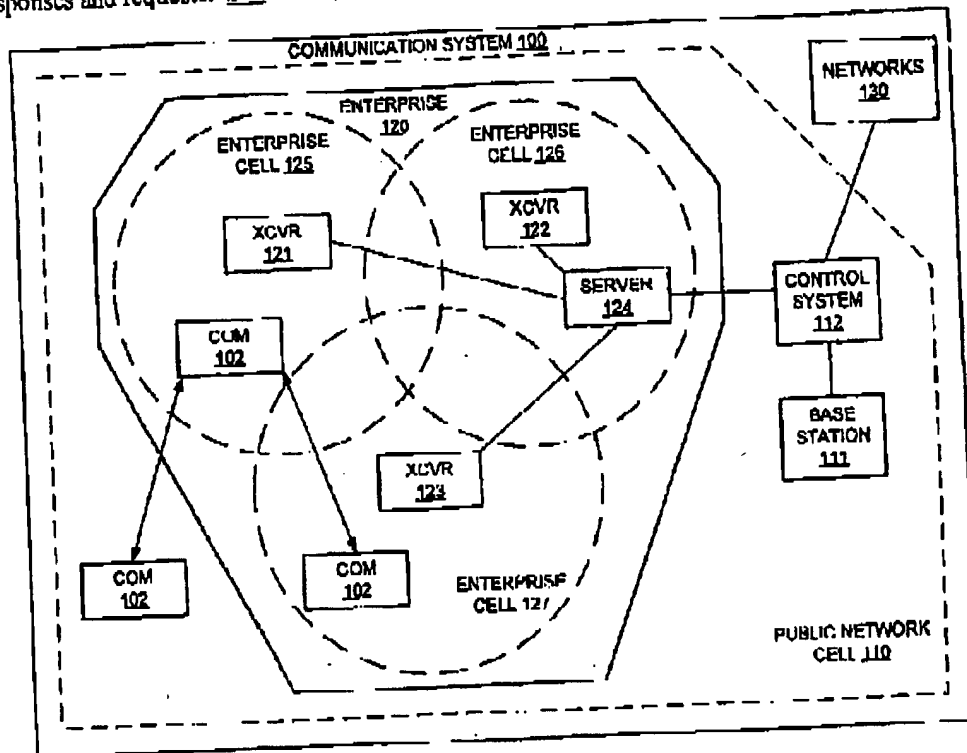
#### Independent Claim 1

The rejection of Claim 1 is respectfully traversed. It is respectfully submitted that *Cook*, *Catan*, and *Rosenthal* either alone or in combination fail to describe, teach, or suggest: (1) storing an information account in a central data repository accessible via the distributed network; (2) the information account comprising a plurality of consumer information elements associated with a consumer and accessible by an authorized user; (3) receiving via the distributed network a promotion code from a remote wireless client device; (4) in response to receiving the promotion code, querying a database for data associated with the promotion code; and (5) transferring the data into the information account for future access thereof by the authorized user, as recited in amended independent Claim 1.

*Cook* describes a wireless communication system that includes a wireless transceiver and a server, and provides an interface between an enterprise and a user of a wireless communication device. More specifically, as shown below in Figure 1, *Cook* teaches a method where a wireless communication device 102 is registered with public network base station 111 in public network cell 110. When the wireless communication device 102 enters enterprise cell 125, it attempts to register with transceiver 121. If the registration is successful, then control system 112 instructs the public network base station 111 to hand-off wireless communication device 102 to enterprise transceiver 121. See Col. 4, lines 40-60.

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Next, information can be sent by the server 124 to the wireless communication device 102 through the enterprise transceiver 121. The server 124 selects the information for the user based on the identity, position, and user of communication device 102, in addition to, user responses and requests. See Col. 4, lines 9-17.



The Examiner cites *Cook* for teaching a "method for a wireless mobile device performing an information transaction based upon user entered input and authenticating with a server." While *Cook* may be characterized as teaching one type of information transaction, it does not teach the method as recited in amended Claim 1. Instead, *Cook* teaches a system where in response to a wireless device entering an enterprise network, a server selects information to transmit to the wireless device based on the position of the wireless device in an enterprise network, the identity of the user, or the identity of the wireless communication device. Therefore, *Cook* is different from the method taught by Claim 1.

First, *Cook* fails to provide any teaching of storing an information account in a central data repository accessible via the distributed network, the information account comprising a

plurality of consumer information elements associated with a consumer and accessible by an authorized user, as recited in amended Claim 1. *Cook* only teaches a server that is responsible for selecting information and transmitting that information to a wireless device.

Next, *Cook* fails to teach that in response to receiving a promotion code, a database is queried for data associated with the promotion code, as recited in amended Claim 1. As previously stated, *Cook* teaches that in response to a wireless device entering an enterprise network, a server selects information to transmit to the wireless device based on the position of the wireless device in an enterprise network, the identity of the user, or the identity of the wireless communication device.

Finally, *Cook* fails to teach transferring the data (extracted from the database) into a centrally-stored information account for future access thereof by the authorized user, as recited in amended Claim 1. *Cook* only teaches that the information selected by the server is transmitted to the wireless device, not to an information account that is stored in a central data repository for future access.

*Catan* describes mechanisms for using a machine readable label ("MRL") reader to deliver highly relevant information or processes relating to an article to which a MRL device is attached. More specifically, *Catan* describes a method where a MRL reader scans an MRL device, and in response, the MRL device transmits data stored in the MRL device to the MRL reader 100. The MRL reader 100 may then transmit the data acquired from the MRL device, along with other data in its memory, through the network/Internet 130 to the network server 140 and/or the LAN server 150. See Col. 10, lines 17-39.

In response to the data received from the MRL reader, the server 140 can respond by transmitting data back to MRL reader 100. Specifically, *Catan* teaches that the server 140 can request additional information from the user by providing a menu with options on the MRL reader display; the user may be given the option of receiving the data by email; the user can request to have the information stored locally on the MRL reader 100 for later review. See Col. 12, lines 8-24.

Similar to *Cook*, the Examiner also cites *Catan* for teaching a "method for a wireless mobile device performing an information transaction based upon user entered input and authenticating with a server." However, for similar reasons as cited with respect to *Cook*, *Catan* is different from the method taught by amended Claim 1. First, *Catan* fails to teach storing an

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information account in a central data repository accessible via the distributed network, the information account comprising a plurality of consumer information elements associated with a consumer and accessible by an authorized user, as recited in amended Claim 1.

Furthermore, *Catan* fails to teach transferring the data (extracted from the database) into a centrally-stored information account for future access thereof by the authorized user, as recited in amended Claim 1. *Cook* only teaches that the information selected by the server is transmitted to the MRI reader, not to an information account that is stored in a central data repository for future access.

Applicants submit that the *Rosenthal* fails to correct the deficiencies of *Cook* and *Catan*. The Examiner cites *Rosenthal* only for teaching "a method for wireless transaction authentication including a server." Applicants submit that *Rosenthal* does not disclose the features of the present invention discussed above with respect to *Cook* and *Catan*.

In light of the differences between amended independent Claim 1 and *Cook*, *Catan*, and *Rosenthal*, Applicants submit that *Cook*, *Catan*, and *Rosenthal* fail, individually and collectively, to teach or suggest the features set forth in amended independent Claim 1. Applicants submit that none of the other documents cited by the Examiner teach or suggest those features either. Accordingly, Applicants respectfully request consideration and withdrawal of the rejection of Claim 1.

#### Independent Claim 43

The rejection of Claim 43 is respectfully traversed. It is respectfully submitted that *Cook*, *Catan*, and *Rosenthal* either alone or in combination fail to describe, teach, or suggest the features set forth in amended independent Claim 43. As noted with respect to independent Claim 1, neither *Cook*, *Catan*, nor *Rosenthal* describes a central data repository accessible via the distributed network and storing consumer information accounts. Furthermore, neither *Cook*, *Catan*, nor *Rosenthal* teach information transactions wherein data is extracted from a database and is transferred into a central data repository for subsequent access by authorized users.

In light of the differences between amended independent Claim 43 and the *Cook*, *Catan*, and *Rosenthal* documents, Applicants submit that *Cook*, *Catan*, and *Rosenthal* fail, individually and collectively, to teach or suggest at least the features set forth in amended independent Claim 43. Applicants submit that none of the other documents cited by the Examiner teach or suggest

those features either. Accordingly, Applicants respectfully request consideration and withdrawal of the rejection of Claim 43.

Independent Claim 60

The rejection of Claim 60 is respectfully traversed. It is respectfully submitted that *Cook*, *Catan*, and *Rosenthal* either alone or in combination fail to describe, teach, or suggest the features set forth in amended independent Claim 60. As noted with respect to independent Claim 1, neither *Cook*, *Catan*, nor *Rosenthal* describes a central data repository accessible via the distributed network and storing consumer information accounts.

In light of the differences between amended independent Claim 60 and the *Cook*, *Catan*, and *Rosenthal* documents, Applicants submit that *Cook*, *Catan*, and *Rosenthal* fail, individually and collectively, to teach or suggest at least the features set forth in amended independent Claim 60. Applicants submit that none of the other documents cited by the Examiner teach or suggest those features either. Accordingly, Applicants respectfully request consideration and withdrawal of the rejection of Claim 60.

Dependent Claims 2-8, 44-48, and 61-67

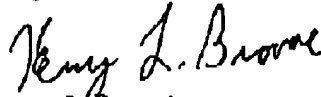
The Applicants respectfully submit that the above-identified dependent claims are allowable because the independent claims from which they depend are patentable over the cited documents. The Applicants also respectfully submit that the recitations of these dependent claims are of patentable significance. In view of the foregoing, the Applicants respectfully request that the Examiner withdraw the pending rejections of dependent Claims 2-8, 44-48, and 61-67.

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**CONCLUSION**

Applicants submit the foregoing as a full and complete response to the Non-Final Office Action dated January 23, 2006. Applicants and the undersigned thank Examiner Cangialosi for consideration of these remarks. If any issues exist that can be resolved with an Examiner's Amendment or a telephone conference, please contact the undersigned at 404.572.4647.

Respectfully submitted,



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